

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CRIMINAL JUSTICE ACT PLAN

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UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CRIMINAL JUSTICE ACT PLAN

I. AUTHORITY

Pursuant to the provisions of the Criminal Justice Act of 1964, as amended, 18 U.S.C. 3006A, [hereinafter referred to as “the Act”] and the Guidelines for the Administration of the Criminal Justice Act, Volume VII, Guide to Judiciary Policies and Procedures (CJA Guidelines), the Judges of the United States District Court for the Middle District of Pennsylvania adopt this Plan for furnishing representation in federal court for any person financially unable to obtain adequate representation in accordance with the Act.

II. STATEMENT OF POLICY

A. Objectives

1. The objective of this Plan is to attain the ideal of equality before the law for all persons. Therefore, this Plan shall be administered so that those accused of crime, or otherwise eligible for services pursuant to the Act will not be deprived, because they are financially unable to pay for adequate representation, of any element of representation necessary to an effective defense.
2. The further objective of this Plan is to particularize the requirements of the Act, the Anti-Drug Abuse Act of 1988 (codified in part at section 848(q) of title 21, United States Code), and the CJA Guidelines in a way that meets the needs of this district.

B. Compliance

1. The court, its clerk, the federal public defender organization, and private attorneys appointed under the Act shall comply with the CJA Guidelines approved by the Judicial Conference of the United States and/or its Committee on Defender Services and with this Plan.
2. Each private attorney shall be provided by the federal public defender with a then-current copy of this Plan and the CJA Guidelines upon the attorney’s first appointment under the Act or designation as a member of the Panel of Private Attorneys under the Criminal Justice Act (CJA Panel).

### III. DEFINITIONS

- A. "Representation" includes counsel and investigative, expert, and other services necessary for an adequate defense.
- B. "Appointed attorney" includes private attorneys and the federal public defender and staff attorneys of the federal public defender organization.

### IV. PROVISION OF REPRESENTATION

#### A. Circumstance

##### 1. Mandatory

Representation shall be provided for any financially eligible person who:

- a. is charged with a felony or with a Class A misdemeanor;
- b. is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of title 18, United States Code;
- c. is charged with a violation of probation, or faces a change of a term or condition of probation (unless the modification sought is favorable to the probationer and the government has not objected to the proposed change);
- d. is under arrest, when such representation is required by law;
- e. is entitled to appointment of counsel in parole proceedings;
- f. is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;
- g. is subject to a mental condition hearing under chapter 313 of title 18, United States Code;
- h. is in custody as a material witness;
- i. is seeking to set aside or vacate a death sentence under sections 2254 or 2255 of title 28, United States Code;
- j. is entitled to appointment of counsel in verification of consent proceedings pursuant to a transfer of an offender to or from the United States for the execution of a penal sentence under section 4109 of title 18, United States Code;
- k. is entitled to appointment of counsel under the Sixth Amendment to the Constitution; or
- l. faces loss of liberty in a case and federal law requires the appointment of counsel.

## 2. Discretionary

Whenever a judge or United States magistrate determines that the interests of justice so require, representation may be provided for any financially eligible person who:

- a. is charged with a petty offense (Class B or C misdemeanor, or an infraction) for which a sentence to confinement is authorized;
- b. is seeking relief, other than to set aside or vacate a death sentence under sections 2241, 2254, or 2255 of title 28, United States Code;
- c. is charged with civil or criminal contempt who faces loss of liberty;
- d. has been called as a witness before a grand jury, a court, the Congress, or a federal agency or commission which has the power to compel testimony, and there is reason to believe, either prior to or during testimony, that the witness could be subject to a criminal prosecution, a civil or criminal contempt proceeding, or face loss of liberty;
- e. is proposed by the United States attorney for processing under a pretrial diversion program;
- f. is held for international extradition under chapter 209 of title 18, United States Code.

Representation may also be furnished for financially eligible persons in ancillary matters appropriate to the proceedings pursuant to subsection (c) of the Act.

### B. When Counsel Shall be Provided

Counsel shall be provided to eligible persons as soon as feasible after they are taken into custody, when they appear before a magistrate or judge, when they are formally charged or notified of charges if formal charges are sealed, or when a magistrate or judge otherwise considers appointment of counsel appropriate under the Act, whichever occurs earliest.

In appointing counsel, the Court shall select the federal public defender organization or an attorney from the panel of private attorneys approved by the court, except in extraordinary circumstances where appointment of other qualified and experienced counsel becomes necessary.

Appointment of counsel may be retroactive to include representation furnished pursuant to this plan prior to appointment. The Court shall appoint separate counsel for persons having interests that cannot be represented by the same counsel or when other good cause is shown.

## C. Number and Qualifications of Counsel

### 1. Number

More than one attorney may be appointed in any case determined by the court to be extremely difficult. In a capital case, at least two attorneys should be appointed.

### 2. Qualifications

Except as provided by section 848(q)(7) of title 21, United States Code, at least one attorney appointed in a capital case shall meet the qualification requirements set forth in sections 848(q)(5) and (6) of title 21, United States Code. Pursuant to section 848(q)(7), the presiding judicial officer, for good cause, may appoint an attorney who may not qualify under sections 848(q)(5) and (6), but who has the background, knowledge, and experience necessary to represent the defendant properly in a capital case, giving due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

## D. Eligibility for Representation

### 1. Fact finding

The determination of eligibility for representation under the Act is a judicial function to be performed by a federal judge or magistrate after making appropriate inquiries concerning the person's financial condition.

### 2. Disclosure of Change in Eligibility

If, at any time after appointment, counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of the attorney's information is not protected as a privileged communication, counsel shall advise the court.

## V. FEDERAL PUBLIC DEFENDER ORGANIZATION

### A. Establishment

1. The federal public defender organization of the Middle District of Pennsylvania, previously established in this district pursuant to the provisions of the Act, is hereby recognized as the federal public defender organization for this district.

2. The federal public defender organization shall be capable of providing legal services throughout the district and shall maintain offices in Harrisburg, Scranton, and Williamsport, Pennsylvania.

#### B. Supervision of Defender Organization

The federal public defender shall be responsible for the supervision and management of the federal public defender organization. Accordingly, the federal public defender shall be appointed in all cases assigned to that organization for subsequent assignment to staff attorneys at the discretion of the federal public defender.

#### C. Management of CJA Panel

The management of the CJA Panel is subject to the provisions of the Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act, found at Appendix I of this CJA Plan.

### VI. PRIVATE ATTORNEYS

#### A. Establishment of CJA Panel

The existing, previously established panel of attorneys (CJA Panel) who are eligible and willing to be appointed to provide representation under the Act is hereby recognized. The CJA Panel is to be reconstituted within six months of the adoption of this Plan. The court shall review the recommendations of the Panel Selection and Management Committee and approve attorneys for membership on the panel who are competent to give adequate representation to parties under the Criminal Justice Act. The court has established and approved a separate panel of attorneys for the Harrisburg, Scranton/Wilkes-Barre, and Williamsport vicinages.

#### B. Organization

The Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act is found at Appendix I of this CJA Plan.

#### C. Ratio of Appointments

Where practical and cost effective, private attorneys from the CJA Panel shall be appointed in a substantial proportion of the cases in which the accused is determined to be financially eligible for representation under the Act. "Substantial" shall usually be defined as approximately 25 percent of the appointments under the CJA annually throughout the district.



## VII. REPRESENTATION IN STATE DEATH PENALTY HABEAS CORPUS PROCEEDINGS UNDER 28 U.S.C. § 2254

### Appointment of Counsel

The court shall appoint the Defender Association of Philadelphia (Capital Habeas Unit), a member or members of the Death Penalty Panel, the federal public defender with his or her consent, or other attorney who qualifies for appointment pursuant to section 848(q) of title 21, United States Code to represent financially eligible persons seeking habeas corpus relief in state death penalty proceedings under section 2254 of title 28, United States Code.

## VIII. DUTIES OF APPOINTED COUNSEL

### A. Standards

The services to be rendered a person represented by appointed counsel shall be commensurate with those rendered if counsel were privately employed by the person.

### B. Professional Conduct

Attorneys appointed pursuant to the Act shall conform to the highest standards of professional conduct, including but not limited to the provisions of the Pennsylvania Rules of Professional Conduct.

### C. No Receipt of Other Payment

Appointed counsel may not require, request, or accept any payment or promise of payment or any other valuable consideration for representation under the appointment, unless such payment is approved by order of the court.

### D. Continuing Representation

Once counsel is appointed under the CJA, counsel shall continue the representation until the matter, including appeals or review by certiorari, is closed; until substitute counsel has filed a notice of appearance; until an order has been entered allowing or requiring the person represented to proceed pro se; or until the appointment is terminated by court order.

## IX. DUTIES OF LAW ENFORCEMENT AND RELATED AGENCIES

### A. Presentation of Accused for Appointment of Counsel

Federal law enforcement and prosecutorial agencies, probation officers, and pretrial services officers in this district, and those acting on their behalf, shall promptly ask any person who is in custody, or who otherwise may be entitled to counsel under the Act, whether he or she is financially able to secure representation, and shall, in such cases in which the person indicates that he or she is not able, notify the federal public defender who shall discuss with the person the right to representation and right to appointed counsel, and if appointment of counsel seems likely, assist in the completion of a financial affidavit (CJA Form 23) and arrange to have the person promptly presented before a magistrate or judge of this court for determination of financial eligibility and appointment of counsel.

### B. Pretrial Services Interview

Appointed counsel should be furnished to financially eligible defendants prior to the defendants being interviewed by a pretrial services or probation officer. If appointed counsel is not available within 30 minutes of notification of the defendant's arrival at the federal building, the pretrial services or probation officer may interview the defendant.

### C. Notice of Indictment or Criminal Information

Upon the return or unsealing of an indictment, the filing of a criminal information, or the filing of a petition to modify or revoke probation, the United States attorney or the probation officer, as appropriate, immediately shall mail or otherwise deliver a copy of the document to appointed counsel, or to the defendant if he is without counsel, at the address shown on defendant's bond papers or to the jail in which the defendant is incarcerated.

## X. MISCELLANEOUS

### A. Forms

Standard forms, pertaining to the Act and approved by the Judicial Conference of the United States or its Committee on Defender Services and prescribed and distributed by the Director of the Administrative Office of the United States Courts, shall be used, where applicable, in all proceedings under this Plan.

## B. Claims

Claims for compensation of private attorneys providing representation under the Act shall be submitted on the appropriate CJA form, to the office of the clerk of the court or the federal public defender. That office shall review the claim form for mathematical and technical accuracy and for conformity with the CJA Guidelines, and, if correct, shall forward the claim form for the consideration of the appropriate judge or magistrate. The court will exert its best effort to avoid delays in reviewing payment vouchers and in submitting them for further processing.


## C. Supersession

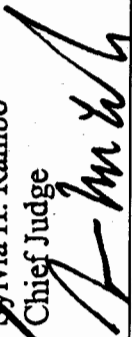
This Plan supersedes all prior Criminal Justice Act Plans of this court.

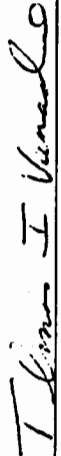
## XI. EFFECTIVE DATE


This Plan shall become effective when approved by the Judicial Council of the Third Circuit.

THE FOREGOING PLAN IS ADOPTED BY THE JUDGES OF THE UNITED STATES  
DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

  
Sylvia H. Rambo  
Chief Judge

  
James F. McClure, Jr.  
U.S. District Judge

  
Thomas I. Vanaskie  
U.S. District Judge

  
William J. Nealon  
U.S. District Judge

  
Malcolm Muir

Certified from the record

Date 7/14/97

Mary E. D'Andrea, Clerk

For Deputy Clerk

U.S. District Judge

Richard P. Conaboy

Richard P. Conaboy

U.S. District Judge

William W. Caldwell

William W. Caldwell

U.S. District Judge

Edwin M. Kosik

Edwin M. Kosik

U.S. District Judge

THE FOREGOING PLAN IS APPROVED BY THE JUDICIAL COUNCIL OF THE THIRD  
CIRCUIT THIS 20 DAY OF November, 1997

Dolores K. Sloviter

Dolores K. Sloviter

Chief Judge

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

APPENDIX I  
TO THE CRIMINAL JUSTICE ACT PLAN

PLAN FOR THE COMPOSITION, ADMINISTRATION, AND  
MANAGEMENT OF THE PANEL OF PRIVATE ATTORNEYS  
UNDER THE CRIMINAL JUSTICE ACT

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

APPENDIX I  
TO THE CRIMINAL JUSTICE ACT PLAN

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TO THE CRIMINAL JUSTICE ACT PLAN

PLAN FOR THE COMPOSITION, ADMINISTRATION, AND  
MANAGEMENT OF THE PANEL OF PRIVATE ATTORNEYS  
UNDER THE CRIMINAL JUSTICE ACT

I. INTRODUCTION

Pursuant to the Guidelines for the Administration of the Criminal Justice Act and the Middle District of Pennsylvania Criminal Justice Act Plan, the United States District Court for the Middle District of Pennsylvania has established the following “Plan for the Composition, Administration, and Management of the Panel of Private Attorneys Under the Criminal Justice Act.”

II. COMPOSITION OF PANEL OF PRIVATE ATTORNEYS

A. Panels

1. Approval

The Court shall establish two panels of private attorneys (hereinafter referred to as the “CJA Panel” and “Death Penalty Panel”) who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The Court shall approve attorneys for membership on the panel after receiving recommendations from the “Panel Selection and Management Committee,” established pursuant to paragraph II(B) of this Plan. Any attorney aggrieved by the decision on his or her application may present a written grievance to the committee whose review and decision shall then be final.

2. CJA Panel

The CJA Panel established by the Court shall consist of 63 lawyers. The Harrisburg, Scranton/Wilkes-Barre, and Williamsport vicinages shall each have 21 lawyers. A group of lawyers (within the 63 lawyers) interested in appellate work will be identified and available to handle appeals should the need arise.

3. Death Penalty Panel

The Death Penalty Panel established by the Court shall consist of an additional 9 lawyers from any vicinage within the district.

#### 4. Eligibility

Attorneys who serve on the CJA and Death Penalty Panels must be members in good standing of the federal bar of this district, and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal and Appellate Procedure, the Federal Rules of Evidence, the Sentencing Guidelines, and the local rules of both the district and circuit courts.

##### a. Specific Requirements for CJA Panel

All attorneys seeking initial membership on the CJA Panel must meet the following minimum eligibility requirements:

- i. at least two (2) years in a public defender or prosecutor's office, either state or federal OR at least three (3) years in private practice during which at least 25% of the attorney's case load was criminal defense work in either state or federal court; such experience in either case must have occurred within no more than four (4) years prior to the application; AND
- ii. attendance at one two hour seminar on a sentencing guideline topic within one (1) year prior to the application; AND
- iii. attendance at one two hour seminar on a federal criminal defense topic within one (1) year prior to the application; AND
- iv. one trial or one guilty plea; or one "second chair" trial and one "second chair " guilty plea within one (1) year of the application; AND

NOTE: At the reappointment process contemplated in paragraph 9 supra, panel attorneys with previous federal trial or appellate experience need not fulfill this fourth eligibility requirement.

- v. the attorney shall live or have a principal office in the Middle District, although in limited circumstances, exceptions to this requirement, where warranted, can be made.

##### b. Specific Requirements for CJA Panel Members Available for Appeals

CJA Panel attorneys available for appointments involving appellate work must have filed at least three (3) appeals to the Third Circuit Court of Appeals and had at least one (1) oral argument before the Third Circuit within three (3) years prior to the application.

c. Specific Requirements of Death Penalty Panel

All attorneys seeking membership on the Death Penalty Panel must meet the following minimum eligibility requirements:

- i. must have been admitted to practice in the United States District Court for the Middle District of Pennsylvania for not less than five (5) years; AND
- ii. must have had not less than three (3) years experience in the actual trial of felony prosecutions in the Middle District Court within the five (5) years prior to the application; AND
- iii. must have attended a seminar on the topic of the death penalty within one (1) year of the application; AND
- iv. actual trial experience in state or federal court on a first degree murder case, capital or otherwise within the five (5) years prior to the application.

d. Second Chair--Training Procedure

At the reapplication process for the entire panel, attorneys who indicate on the application that they have had prior trial/guilty plea experience in federal court will also be asked to indicate whether they would be willing to accept a second chair. A list of attorneys expressing this willingness will be maintained by the Federal Public Defender in such manner that names can be provided on a rotating basis. The names of at least three attorneys willing to accept a second chair shall be provided to each applicant. Attorneys seeking membership on the CJA Panel who need second chair experience to meet their eligibility requirements will be responsible for calling both the Federal Public Defender and the attorney(s) with whom they wish to second chair.

All arrangements for the applicant's second chair experience shall be made between the applicant and the first chair attorney, except that: it shall be the responsibility of the first chair attorney to make the status of the second chair attorney clear to both the Court and his/her client; AND the second chair attorney shall not represent the client in any part of the trial or guilty plea unless specifically authorized in writing by the client on a form provided, a copy of said form signed by the client to be presented to the Court; AND second chair attorneys shall not be compensated in any way for the time spent as second chair.

At the completion of the second chair experience, the first chair attorney shall, if requested, provide certification in writing that the applicant second chaired the entire trial and/or guilty plea. It shall be the responsibility of the applicant to

complete this requirement within the time period provided in paragraph II(A)(4)(a). Service as “second chair” does not guarantee admission of an attorney to the CJA Panel.

## 5. Appointments

Counsel furnishing representation under the plan shall be selected from the panel of attorneys designated or approved by the court or from the defender organization furnishing representation pursuant to the plan.

## 6. Special Appointments

When the district judge presiding over the case, or the chief judge if a district judge has not yet been assigned to the case, determines that the appointment of an attorney, who is not a member of the CJA or Death Penalty Panels, is in the interest of justice, judicial economy or continuity of representation, or there is some other compelling circumstance warranting his or her appointment, the attorney may be admitted to the CJA or Death Penalty Panels pro hac vice and appointed to represent the defendant. Consideration for preserving the integrity of the panel selection process suggests that such appointments should be made only in exceptional circumstances. Further, the attorney, who may or may not maintain an office in the district, should possess such qualities as would qualify him or her for admission to the Middle Districts’ panels in the ordinary course of panel selection.

## 7. Terms

### a. CJA Panel

The initial CJA Panel established pursuant to this Plan will be divided into three groups, equal in number. Members will be assigned to one of the three groups on a random basis. Members of the first group will serve on the panel for a term of two (2) years, members of the second group will serve on the panel for a term of three (3) years, and members of the third group will serve on the panel for a term of four (4) years. Thereafter, attorneys admitted to membership on the CJA Panel will each serve for a term of three years.

### b. Death Penalty Panel

There are no term limits on the death penalty panel.

## 8. Removal from the CJA and Death Penalty Panels

a. Removal from either panel shall be automatic upon proof made to the Chief Judge that a panel attorney has been charged or convicted with any crime in either state or

federal court carrying a possible maximum penalty of more than two (2) years imprisonment..

b. The possibility of removal from either panel shall be reviewed by the Panel Selection and Management Committee upon complaint received from a client, a judge, a magistrate or another attorney concerning the panel member's performance in court and/or his/her discipline by the Disciplinary Board of the Pennsylvania Bar and/or his/her sanction by either the District Court or the Circuit Court. The panel member being considered for removal shall be asked to meet with the Panel Selection and Management Committee reviewing the request for removal and shall be permitted to present information in his/her own behalf to dispute the claim raised. A decision shall be rendered by the Panel Selection and Management Subcommittee after it is satisfied that all relevant information has been received and shall be communicated in writing to the panel member, with reasons stated for the decision. Appeal of the decision of the subcommittee shall be made to the full committee. The decision of the full committee shall be final. There is no presumption that because a client has alleged the ineffectiveness of his/her attorney in a collateral attack on his/her conviction, that attorney must be removed from the panel.

#### 9. Reappointment

A member of the CJA Panel shall be eligible for reappointment to the panel after a one (1) year period immediately following expiration of his or her term, unless waiver of this restriction is certified by the Court.

Continued eligibility for membership on the CJA Panel shall be maintained by accepting at least two appointments per each three year term and by attendance at two seminars on a federal criminal defense topic per each three year term. Members interested in appeals should seek continuing legal education in appellate matters.

#### 10. Application

Application forms for membership on the CJA and Death Penalty Panels shall be made available, upon request, by the Federal Public Defender and the Clerk of the Court. Completed applications shall be submitted to the Federal Public Defender Office in the most convenient vicinage. The defender office will transmit the applications to the Chairperson of the Panel Selection and Management Committee.

#### 11. Equal Opportunity

All qualified attorneys shall be encouraged to participate in the furnishing of representation in CJA cases, without regard to race, color, religion, sex, age, national origin, or disabling condition.

## B. Panel Selection and Management Committee

### 1. Membership

A Panel Selection and Management Committee shall be established by the Court. The following groups shall be represented: the judges of the District, the magistrates of the District, the federal public defender and CJA Panel attorneys.

The full committee shall consist of one (1) judge from Harrisburg, one (1) judge from Scranton/Wilkes-Barre, and one (1) judge from Williamsport, a magistrate from each of the three vicinages of the District, the federal public defender (and/or his/her representative), and nine (9) panel attorneys. The Chief Judge of the District, or his/her designee, shall chair the full committee.

The full committee shall consist of three (3) local subcommittees. Each subcommittee shall consist of one (1) judge, one (1) magistrate, the federal public defender (or his/her representative), and three (3) panel attorneys.

### 2. Duties

a. Each vicinage's subcommittee of the Panel Selection and Management Committee shall meet three (3) times per year for the purposes of reviewing applications and making recommendations for membership on the CJA and Death Penalty Panels. The subcommittee shall ensure the establishment and maintenance of a panel of 21 private attorneys who are willing and able to accept appointments for the CJA Panel. The subcommittees shall review the qualifications of applicants and recommend, for approval by the Court, those applicants best qualified to fill the vacancies.

b. If, at any time during the course of a year, the number of vacancies due to resignation, removal, or death significantly decreases the size of the panel in a vicinage, the subcommittee shall solicit applications for the vacancies, convene a special meeting to review the qualifications of the applicants, and select prospective members for recommendation to the Court for approval. Members approved by the Court to fill mid-term vacancies shall serve until the expiration of the term that was vacated, and shall be immediately eligible for reappointment notwithstanding the one-year restriction imposed by paragraph 9 above, provided that the portion of the expired term actually served by the member did not exceed eighteen months.

c. The full Panel Selection and Management Committee shall meet at least once a year to review the operation and administration of the panel over the preceding year, and to recommend to the Court any changes deemed necessary or appropriate by the Committee regarding the appointment process and panel management. The Committee shall also inquire at least annually as to the continued availability and willingness of each panel member to accept appointments. Further, the full committee is charged with the establishment and maintenance of the Death Penalty Panel.

### 3. Term

After the full committee is constituted, one panel attorney in each vicinage shall be randomly selected to serve a three year term, another will be selected to serve a four year term, and a third will be selected to serve a five year term. At the completion of these initial terms, all panel attorney members of the full committee will serve three year terms such that one-third of this group will rotate in annually, on a three year term basis, for service on the full committee.

The federal public defender shall serve continuously on the full committee. Judicial representatives to the Committee and their terms shall be determined by the Chief Judge.

## III. SELECTION FOR APPOINTMENT

### A. Maintenance of List and Distribution of Appointments

The Federal Public Defender and Clerk of Court shall maintain a current list of all attorneys included on the CJA and Death Penalty Panels, with current office addresses and telephone numbers, as well as a statement of qualifications and experience. The Federal Public Defender shall furnish a copy of this list to each judge and magistrate. The Federal Public Defender shall also maintain a public record of assignments to private counsel, and, when appropriate, statistical data reflecting the proration of appointments between attorneys for the Federal Public Defender office and private attorneys, according to the formula described in the CJA Plan for the Middle District.

### B. Method of Selection

Appointments from the list of private attorneys should be made on a rotational basis, subject to the Court's discretion to make exceptions due to the nature and complexity of the case, an attorney's experience, and geographical considerations. This procedure should result in a balanced distribution of appointments and compensation among the members of the CJA and Death Penalty Panels, and quality representation for each CJA defendant.

Upon the determination of a need for the appointment of counsel, the judge or magistrate shall notify the Federal Public Defender of the need for counsel and the nature of the case.

The Federal Public Defender shall advise the judge or magistrate as to the status of distribution of cases, where appropriate, as between the Federal Public Defender and the panel of private attorneys. If the magistrate or judge decides to appoint an attorney from the panel, the Federal Public Defender shall determine the name of the next panel member on the list who is available for appointment and shall provide the name to the appointing judge or magistrate.

In the event of an emergency, i.e., weekends, holidays, or other non-working hours of the Federal Public Defender and Clerk of Court offices, the presiding judge or magistrate may appoint any attorney from the list. In all cases where members of the CJA Panel are appointed out of sequence, the appointing judge or magistrate shall notify the Federal Public Defender as to the name of the attorney appointed and the date of the appointment.

#### IV. COMPENSATION - FILING OF VOUCHERS

Claims for compensation shall be submitted on the appropriate CJA form, to the office of the Clerk of Court or Federal Public Defender. The Clerk of the Court or Federal Public Defender shall review the claim form for mathematical and technical accuracy, and for conformity with the Guidelines for the Administration of the Criminal Justice Act (Volume VII, Guide to Judiciary Policies and Procedures) and, if correct, shall forward the claim form for the consideration and action of the presiding judge or magistrate.

It is the general policy of the Middle District that vouchers shall not be reduced. However, it is acknowledged that in some cases reduction will be necessary or appropriate. In those cases, the procedure set forth in the balance of this section shall be followed.

In any case where the judicial officer intends to reduce the amount of payment requested in a trial level voucher, CJA counsel shall be notified of the amount of the intended reduction and the reasons for same, and may request an opportunity for review by the judicial officer. After review of any submission by appointed counsel, including his/her response to the judicial officer's reasons for the reduction, and the completion of any other steps deemed appropriate by the judicial officer, the judicial officer shall take action on the voucher consistent with the Plan, the CJA and the interests of justice. The Panel Management Committee shall be available to make recommendation on voucher issues.

The Third Circuit shall approve all vouchers submitted by appellate counsel.